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SENSITIVE
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STATE FOR EB/IFDD/OIA HGOETHERT, EEB/IFD/OIA KBUTLER, L/CID
GSWINEY & CHOLLAND

E.O. 12958: N/A
TAGS: ECON EINV KIDE PL
SUBJECT: POLAND: 2008 REPORT ON INVESTMENT DISPUTES AND
EXPROPRIATION CLAIMS

REF: STATE 43784

¶1. (U) In response to reftel, post provides the following information, in the format requested in reftel para. 15.

¶2. (U) Post is aware of two (2) claims of U.S. Claimants that may be outstanding against the Government of Poland.

¶3. (SBU) (A). Claimant designation: Claimant A.
(B) Approximate year dispute arose: 2003.
(C) Case history: In 1995, Claimant A, an American company, invested in a sugar substitute production facility, which opened in May 2001. In late 2001, the Polish government implemented a national production quota on sugar substitutes. Then in EU accession discussions, the Polish government agreed to an even lower quota on sugar substitutes within the EU. These quotas limit the ability of Claimant A to utilize its investment. In February 2003, Claimant A notified the Polish government that it would seek international arbitration under Article 3 of the UNCITRAL rules. In Spring 2008, the arbitration panel determined that Claimant A was entitled to a monetary award, with interest. Claimant A is awaiting a response from the Polish government regarding when the Polish government will either seek an appeal or satisfy the arbitral decision.

¶4. (SBU) (A) Claimant designation: Claimant B.
(B) Approximate year dispute arose: 2003.
(C) Case history: In 1999, Claimant B began construction of an import/export facility on land leased from a Polish-government controlled port authority. After several investors withdrew from the project, construction halted in
¶2003. The port authority refused to pay Claimant B for work accomplished. Claimant B found a potential buyer to take over the project, but the sale fell through because, Claimant B alleges, of the port authority's actions. In 2005, the Polish Arbitration Court determined that Claimant B owed the port authority arrears, and declared that the land lease remained in effect. In 2006, the lease was terminated. In February 2008, Claimant B filed a counterclaim with the Polish Arbitration Court, seeking US$75 million-$US180 million in damages. That case is still pending.

¶5. (SBU) This paragraph contains business proprietary information, and is not for public release. Post has no information to indicate that either Claimant A or Claimant B has signed a Privacy Act waiver. As reported in prior years, Claimant A. is Cargill. Claimant B is Europort, a Canada-U.S. consortium. All shares of Europort are owned by Renaissance Trust LP and Dessaport International Corporation. Renaissance Trust LP is owned by U.S. citizen Joseph D'Andrea.
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